

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

FIRST APPEAL NO. 1656 OF 1996

Office Notes, Office Memoranda
of of Coram, appearances, Court's
orders and Registrar's orders : Court's or Judge's orders

Shri Rajesh S. Datar for the appellants.

Shri Mohan N. Dhamal for Resp.Nos. 2 to 5.

CORAM: P.V. KAKADE, J.

DATED: 16TH SEPT., 2004

P.C.:

1. Heard advocates for both sides.

2. The appellant who is the Insurance Company seeks to challenge the award dated 13.6.1996 passed by the Motor Vehicle Accidents Claim Tribunal, Raigad, Alibag, on the ground that evidence on record does not support the case to the effect that the vehicle was driven in rash and negligent manner and there was no sufficient evidence on record to establish the rashness and negligence in the matter of driving of the vehicle. Undisputedly, there is no challenge by the Insurance Company on any of the ground specified under Sec.149/2 of the Motor Vehicle Act, 1988 or Section 95(2) of the Motor Vehicle Act, 1939.

3. Considering the decision of the Apex Court in the matter of **National Insurance Co. Ltd., Chandigarh v/s Nicolleita Rohtagi & ors., reported in 2002 (6) Supreme Court 362**, challenges available to the Insurance Company are restricted to those which are enumerated under the above quoted provisions of law. Hence, the present appeal is not maintainable at the instance of the Insurance Company.

The appeal, therefore, is liable to be summarily rejected and is accordingly rejected.

C. c. expedited.

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